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COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Forty-eighth session

SUMMARY RECORD OF THE 1148th MEETING

Held at the Palais des Nations, Geneva,
on Monday, 11 March 1996, at 10 a.m.

Chairman: Mr. BANTON

CONTENTS

PREVENTION OF RACIAL DISCRIMINATION, INCLUDING EARLY WARNING AND URGENT PROCEDURES (agenda item 5) (continued)

Rwanda: draft declaration on the situation of Rwanda

Bosnia and Herzegovina: discussion paper on the Committee's contribution to the implementation of the Dayton Accords

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The meeting was called to order at 10.10. a.m.

PREVENTION OF RACIAL DISCRIMINATION, INCLUDING EARLY WARNING AND URGENT PROCEDURES (agenda item 5) (continued)

1. The CHAIRMAN invited the members of the Committee to consider a draft declaration on the situation of Rwanda prepared by Mr. Valencia Rodriguez (CERD/48/Misc.11/Rev.1) and a working paper on Bosnia and Herzegovina prepared by Mr. van Boven (CERD/48/Misc.13).

Rwanda: draft declaration on the situation of Rwanda (CERD/48/Misc.11/Rev.1)

2. Mr. VALENCIA RODRIGUEZ said that the draft took account of the information provided by the Representative of the Secretary-General and reflected the Committee's concern about the considerable number of detained persons in Rwanda and the spreading of intolerance by the media. The solutions proposed were, first, a continued United Nations presence in the country, in either a civilian or a military capacity, even if the United Nations Assistance Mission for Rwanda (UNAMIR) withdrew, and also the convening of a constitutional conference.

3. Mr. WOLFRUM said that he fully supported the draft declaration, but proposed that, if, as he believed, the Security Council had unanimously decided that the United Nations presence should come to an end, regret at that decision should be explicitly stated in the declaration.

4. Mr. CHIGOVERA said that he fully endorsed the contents of the declaration. The idea of convening a constitutional conference to re-establish a lasting peace should have been expressed earlier. He feared, however, that if there were no more United Nations staff members in contact with the Government and if UNAMIR withdrew, it would be quite difficult to convince the Government to abide by the proposals contained in the declaration.

5. Mrs. SADIQ ALI said that she was fully in favour of the declaration. She noted that, on 5 February, the Secretary-General had said that there were growing signs of a return to normality and a decrease in violence; 97 Canadian nationals had already been removed from the United Nations peace-keeping force in Rwanda. And yet, at the same time, refugees in Goma had been the victims of looting right before the eyes of UNHCR representatives, who had made an official protest. A continued United Nations presence in Rwanda was therefore absolutely essential.

6. Mr. LECHUGA HEVIA said that he endorsed the draft declaration, but wondered who would take the initiative of convening the conference in question.

7. Mr. de GOUTTES said that he fully endorsed the draft declaration, in particular because the number of detainees in Rwanda and the role of the media in spreading national and ethnic discrimination were matters of deep concern. He suggested that it should be ascertained whether Mr. Wolfrum's information on the withdrawal of UNAMIR was accurate in order to bring the text up to date or amend it, if necessary.

8. Mr. DIACONU said that he would like to know what the United Nations had asked for in exchange for the withdrawal of its forces, such as elections within six months, the refugees' return in safety or measures for the protection of minorities.

9. As for the text itself, he believed that, in paragraph 2, the Committee should deplore the withdrawal of UNAMIR and request the Secretary-General and all competent bodies to keep the situation in Rwanda under review.

10. The last paragraph of the declaration appeared to him to be a fairly hasty value judgement, for there was nothing to indicate that the international community was still making efforts in Rwanda. He proposed saying that those efforts would not be sufficient if structural measures were not taken so that an agreement acceptable to all inhabitants of Rwanda could be concluded on the organization of the Government, in order to guarantee the personal safety of all and build a democratic society, and that the Committee was recommending for that purpose that a constitutional conference should be convened in which all parties to the conflict would take part. The last sentence of the paragraph could remain as it was.

11. Mr. YUTZIS proposed that the members should tell Mr. Valencia Rodriguez what changes they suggested once the information on the situation of UNAMIR had been clarified.

12. Mr. GARVALOV said that he agreed that it was necessary to know exactly what decision the Security Council had taken in that regard and what official position the Rwandan Government had adopted on whether the United Nations should continue its work in Rwandan territory.

13. The third paragraph of the declaration might be slightly amended. The first sentence might end with the words "will profit by the holding of a constitutional Conference, which the Committee recommends", with the substance of the rest of the text remaining unchanged.

14. Mr. YUTZIS, speaking on a point of order and supported by Mr. Valencia Rodriguez, proposed that the consideration of the draft declaration should be suspended until the decision of the Security Council and the position of the Rwandan Government had been made known.

15. The CHAIRMAN suggested that another aspect of the Committee's work on Rwanda should be considered: the idea expressed by Mr. Wolfrum at the 1130th meeting that a working group should be set up to prepare a draft constitutional framework for Rwanda.

16. Mr. WOLFRUM said that it would be most useful for such a group to be established. A constitution should take the actual situation in the country in question into account; African jurists and experts in various fields should therefore work together with jurists trained in Roman law or common law. If the Conference in question was not carefully prepared, it might take as a model an existing constitutional framework that did not meet Rwanda's needs. The working group should meet before the Committee's summer session so that the Committee could consider its suggestions.

17. Mr. YUTZIS noted that the proposal for the establishment of a working group on a Rwandan constitution reflected a concern of the Committee often expressed in the case of other countries and more concretely in the case of Bosnia and Herzegovina; in his opinion, the Committee would eventually establish several parallel working groups.

18. Mr. van BOVEN said he wondered what exactly the mandate of the working group in question would be, and, in particular, whether it would be limited to the States from the Great Lakes Region or a particular group of other States. That was a question that should be looked into before the working group was set up.

19. The CHAIRMAN said that, in his understanding, the Committee was about to establish an intersessional working group that would look into the case of Rwanda, but that its deliberations and conclusions would be useful when another working group looked into the case of a State whose situation was similar.

20. Mr. CHIGOVERA noted in that connection that Burundi's only difference from Rwanda was its recent history and that the two States had comparable problems. The activities of the working group on Rwanda would therefore certainly be quite useful to Burundi.

21. Mr. YUTZIS said that the document entitled "Bosnia and Herzegovina in the Light of the Dayton Peace Accords" and submitted by Mr. van Boven (CERD/48/Misc.13) gave an example of how the Committee's activities relating to different countries might dovetail. Paragraph 5 of the document suggested a way in which the Committee might contribute to the establishment of peace in Bosnia and Herzegovina and, in his view, the same thing could be done for Rwanda. However, as Mr. van Boven had requested, the Committee must state clearly what mandate it intended to give each of the working groups and must be able to consider both groups' conclusions at its next session.

22. Mr. de GOUTTES said that, although Mr. van Boven's and Mr. Wolfrum's proposals did not enter into the same framework, they might have some common points. For example, the idea suggested by Mr. van Boven of asking the Working Group on Bosnia and Herzegovina to make contact with a series of bodies working on the same country might be taken up by the working group that would be dealing with Rwanda. Such contacts might mean that the Committee would not have to carry out much too isolated a task. He intended to speak to the High Commissioner for Human Rights, with whom he was to meet later that morning, about the advisability of such contacts.

23. Mr. WOLFRUM said that he endorsed Mr. de Gouttes' initiative. He stressed, however, that, in the case of Bosnia and Herzegovina, the Dayton Accords would serve as a working basis, whereas the working group dealing with Rwanda would not have such a document available. That might, moreover, be a way for the Committee to contribute to the establishment of parameters for peace. As Mr. Yutzis had already said, it might first try to form a precise idea of the situation, to which end it would work closely with the secretariat and the competent bodies. It might also make suggestions relating to a future

constitution, which would take account of the situation in Rwanda, and also in Burundi. In so doing it might make use of the Constitutions of other States from that region or of States having experienced the same problems, such as Cyprus or Fiji.

24. However, even more than the Constitution, the working group and the Committee should focus their attention on the lower echelons of the administration, such as the municipalities, and also on questions relating to the judicial system, the resettlement of refugees and the restitution of property. Such problems were as real and concrete as they were difficult to solve and the working group might prepare a sort of summary of the practical aspects of the situation for discussion at the Committee's next session.

25. Mr. YUTZIS said that the situation in Rwanda and the situation in Burundi were very different for cultural and historic reasons. Each of the working groups should discuss in detail how the Committee might make a specific contribution not only to strengthening both countries' institutions, but also to repairing the social fabric, which had been very badly torn.

26. Mr. RECHETOV said that no one could be certain that, within a year, peace would have been established in Rwanda, Bosnia and Herzegovina or even the Middle East. In Bosnia and Herzegovina, for example, the situation might still worsen, as the many inhabitants fleeing Sarajevo and the problems in Srebrenica might indicate. Working groups should therefore not be short-lived and should be made up of voluntary experts who were genuinely interested in the problems of the countries concerned and would make constructive and well-thought-out proposals, in particular in the constitutional area, for submission to the international community.

27. The CHAIRMAN suggested that the working group on Rwanda should be established forthwith, with Mr. Wolfrum coordinating its work and clarifying its mission. At its following session, the Committee might specify the working group's mandate and, in view of the results achieved, decide whether it should pursue its mission.

28. It was so decided.

Bosnia and Herzegovina: discussion paper on the Committee's contribution to the implementation of the Dayton Accords (CERD/48/Misc.13)

29. Mr. van BOVEN drew attention to an error in the text: The words "if the Committee so wishes" at the beginning of paragraph 4 should in fact appear in the last sentence of paragraph 3, after the words "This includes CERD". He hoped that the paper would help the Committee to take measures regarding Bosnia and Herzegovina and the implementation of the Dayton Peace Accords. Although the Accords were not in conformity with the provisions of the Convention in all respects, they had at least put an end to the killing. In any event, they had been signed by the parties to the conflict and it was for the Committee to make specific proposals to ensure that they were implemented on the basis of respect for the principles embodied in the Convention, especially with regard to annexes 6 and 7, which dealt with human rights and refugees and displaced persons respectively.

30. In that spirit, the Committee might consider four types of action (para. 5 of the discussion paper). It might first request one or more of its members to consult with the OSCE, the Council of Europe, the High Representative appointed under the Dayton-Paris Peace Accords, the United Nations High Commissioner for Human Rights, the United Nations High Commissioner for Refugees and other concerned bodies, with a view to making recommendations as soon as possible for follow-up action by the Committee.

31. Second, it might institute a process of consultation with the authorities of the Government of Bosnia and Herzegovina, the Federation of Bosnia and Herzegovina and the Republika Srpska on how its good offices might be drawn upon to promote understanding between races and ethnic groups and to build a society free from all forms of racial or ethnic segregation and discrimination.

32. Third, it might seek, as soon as practically possible, a meeting between a delegation of its members and the newly established Commission on Human Rights for Bosnia and Herzegovina so as to make its experience available to that Commission.

33. Lastly, it might invite the successor republics of the former Yugoslavia to a special workshop to discuss possibilities of future cooperation among them on the promotion of the principles of equality and non-discrimination, particularly for ethnic communities, nationalities and minorities.

34. The different options were not mutually exclusive and the Chairman might wish to coordinate the various steps the Committee decided to take, in consultation with the Bureau and the coordinator for agenda 5. The financial implications should be looked into with the secretariat. Concerning the second option, he saw no reason not to mention the parties to the conflict explicitly.

35. Mr. RECHETOV said that he fully endorsed the ideas expressed by Mr. van Boven and that the international community should make every effort to enable the refugees to return home. He was concerned about the fact that, despite the war's end, thousands of people were continuing to flee, not, as some claimed, because they had been given orders to do so, but simply because they were afraid.

36. At a time when the Committee was preparing to take a new initiative concerning Bosnia and Herzegovina, it appeared to have forgotten the mission it had undertaken in Kosovo two years before. If it wished to retain its credibility with the international community, it should conclude the task it had begun in that region.

37. Mr. de GOUTTES said that he fully endorsed Mr. van Boven's proposals, which would enable the Committee to make its contribution to the implementation of the Dayton Peace Accords. The members of the Committee would have to share out the tasks covered in those proposals among them. He was prepared to contact the Council of Europe. He would also like to know whether he might show Mr. van Boven's discussion paper to the

High Commissioner for Human Rights, whom he was to meet in a few minutes. In conclusion, he did not believe that there was a contradiction between the Committee's mission in Kosovo, which Mr. Rechetov had done well to mention, and the initiatives the Committee might take regarding Bosnia and Herzegovina.

38. Mr. WOLFRUM said he fully supported to the proposals made by Mr. van Boven in paragraph 5 of the discussion paper. He regretted, however, that the first four paragraphs did not sufficiently stress the fact that the Dayton Accords said nothing of issues like the fate of Zepa and Srebrenica or what means should be used to guarantee the refugees' return in complete safety and enable voters to vote in the places where they had lived before the conflict. In view of the events taking place in Mostar and Sarajevo, where neighbourhoods were being burned down with the peace-keeping forces taking no action, the Committee should demand the full implementation of the Dayton Accords by all the parties.

39. The mission organized by the Committee in Kosovo, which had been considered a success by all the parties, had been interrupted owing to circumstances beyond the Committee' control. The Committee should renew contact with the parties concerned in order to pursue that mission.

40. Mr. DIACONU noted that the Dayton Accords were a compromise: their primary objective was to end the war, not to consider the question of racial discrimination. It was important for the Committee to make a useful and structured contribution in the context of the global efforts being deployed by the United Nations in Bosnia and Herzegovina to provide for the reconstruction of the country on the bases laid down at Dayton. To that end, the Committee should ask the High Commissioner for Human Rights how he envisaged the consultations among the various United Nations bodies, the authorities of Bosnia and Herzegovina and the new Commission on Human Rights. After the elections in Bosnia and Herzegovina, the Committee might help the new authorities to draft a new constitution and implement the Convention. He proposed that the Committee should resume its good offices mission in Kosovo and, in that connection, he would like to know whether the Federal Republic of Yugoslavia (Serbia and Montenegro), which had opposed such a mission, had been represented at the last Meeting of the States Parties to the Convention in January 1996.

41. The CHAIRMAN said that, as far as he recalled, the Federal Republic of Yugoslavia (Serbia and Montenegro) had not been excluded from the last Meeting of States Parties, but he did not believe that it had participated.

42. Mr. CHIGOVERA said that it was difficult for him to give an opinion on the various options proposed by Mr. van Boven, for he had not had the opportunity to read the Dayton Accords. He noted, however, that the massacres perpetrated in the ethnic cleansing operations had come to an end, even if confidence did not yet seem to have been restored. According to the information transmitted by the media, many Serbs were fleeing Sarajevo, creating a new group of refugees. It would be useful for the Committee to have more recent information on the situation in Bosnia and Herzegovina.

43. The CHAIRMAN noted that four copies of the Dayton Accords were available for the members of the Committee who wished to consult them.

44. Mr. YUTZIS said that the text proposed by Mr. van Boven raised a challenge for the Committee. It had to be acknowledged that the Dayton Accords were necessary but insufficient, for they simply helped to reduce some tension, but that did not mean that the conflict had been settled. However, the Committee should not be too critical of the authors of the Accords. Precise objectives should be set to try to reconstitute the social fabric of Bosnia and Herzegovina. He hoped that a working group would be established within the Committee to look into those questions.

45. Mr. SHERIFIS said he found the idea expressed in paragraph 5 of the document prepared by Mr. van Boven that a special workshop should be organized to discuss possibilities of cooperation among the successor republics of the former Yugoslavia very interesting, but he wondered whether the Committee was not putting the cart before the horse by taking decisions before finding out what resources were available to it. While he endorsed the proposal that the Committee should hold consultations with the authorities of Bosnia and Herzegovina, he believed that the Committee s efforts should be part of a coordinated and global process of action by the United Nations in that area and be clearly defined in advance. He also supported the proposal of a meeting between a Committee delegation and the newly established Commission on Human Rights for Bosnia and Herzegovina and the proposal that a member of the Committee might be entrusted with consultations with various bodies in order to make recommendations for follow-up action, but there, too, he believed that it would be appropriate to decide in advance on practical ways of implementing those two proposals.

46. Mrs. SADIQ ALI said that she would like information on the precise role of the international police force entrusted with overseeing the implementation of the Dayton Peace Accords throughout the territory of Bosnia and Herzegovina. In her understanding, when Vogoska, the old Serbian suburb of Sarajevo, had come under Government control, all the inhabitants had fled for fear of reprisals. She was very concerned about that new form of ethnic cleansing. She would also like to know what steps were being planned to ensure the return of the refugees and displaced persons to their homes.

47. She supported the proposal that a member of the Committee should be requested to hold consultations with various bodies and agencies and suggested that Mr. van Boven and Mr. Garvalov should draft recommendations on follow-up action by the Committee by the end of the current session. She was in favour of the idea of organizing a special workshop with the successor States of the former Yugoslavia.

48. Mr. GARVALOV said that the document proposed by Mr. van Boven appeared to be a very ambitious one but that the options it proposed were well within the Committee' competence under the Convention and in keeping with the provisions of the Dayton Accords. Even if they did not guarantee a lasting peace, the Accords had made it possible to put an end to the war. He believed that the Committee should focus its attention on the possibilities of direct consultation with Bosnia and Herzegovina and he suggested that the Chairman of the Committee should write a letter to the Minister for Foreign Affairs of

Bosnia and Herzegovina describing the decisions taken by the Committee. Concerning the options proposed in paragraph 5 of Mr. van Boven's document, he believed that the Committee should inform the various bodies mentioned of the specific role it could play in the framework of United Nations action.

49. The Committee should prepare a separate document on the situation in Bosnia and Herzegovina under agenda item 5. He joined the members of the Committee who would like to know the opinion of Serbia and Montenegro on the resumption of a mission in Kosovo.

50. Mr. AHMADU expressed regret at not having received the text of the Dayton Accords, to which Mr. van Boven's document made repeated references. He welcomed the document, however, since he believed that the Committee's competence and knowledge authorized it to take initiatives regarding racial discrimination with a view to encouraging the successor States of the former Yugoslavia to accede to the Convention. As to the second subparagraph of paragraph 5 of the document, he agreed with Mr. Aboul-Nasr that the Committee should in no event establish official contact with the Republika Srpska. On the other hand, he was in favour of the last two options proposed in paragraph 5 and supported Mr. Garvalov's suggestion that the Chairman of the Drafting Committee should draft a letter to that effect. He was not certain that the Committee should discuss the question whether the Federation of Bosnia and Herzegovina, which was not even a member of the United Nations, was a party to the Convention.

51. Mr. DIACONU said that he wondered whether, under the Dayton Accords, the Federation of Bosnia and Herzegovina and the Republika Srpska had to ratify the Convention separately. If Bosnia and Herzegovina was a party to the Convention, the Committee should hold consultations with its Government and take the necessary steps to ensure the implementation of the Convention throughout the territory. However, he stressed again the fact that the Government of Bosnia and Herzegovina was a temporary Government and that a new Government was shortly to be elected. He would also like to know whether the Commission on Human Rights for Bosnia and Herzegovina was a governmental or non-governmental commission and, if the former, whether it was representative of all of Bosnia and Herzegovina. Would similar commissions be established for the Federation of Bosnia and Herzegovina and for the Republika Srpska? It would not be reasonable to enter into a dialogue with a commission that represented only part of the country.

52. Mr. WOLFRUM noted that the three signatories of the Dayton Accords were the Republic of Bosnia and Herzegovina, the Republic of Croatia and the Federal Republic of Yugoslavia. However, in annex I.A of the Accords, which concerned the military aspects of the peace settlement, the signatories were the Republic of Bosnia and Herzegovina, the Federation of Bosnia and Herzegovina and the Republika Srpska. It was obvious, however, that the Republika Srpska could not become a party to the Convention, since it was only one of the two entities making up Bosnia and Herzegovina.

53. Mr. van BOVEN said that his document had been meant as a basis for discussion and had not been intended for adoption as such. On the question of Kosovo, which was not dealt with in the document, he fully agreed with the members of the Committee who considered that the Committee should resume its efforts in that region, which remained a potential cause of conflict. Concerning the document itself, he acknowledged that the introductory paragraphs might have been drafted differently: their purpose was primarily to summarize the contents of annexes 6 and 7 of the Accords, with which many persons were not familiar. The most important paragraph of the document was paragraph 5. Mr. Banton and Mr. Diaconu had stressed an important point in recommending that the Committee should act through the special relations it had with the States that were parties to the Convention, for the Dayton Accords concerned the parties to the conflict. If account was taken of the Constitution of Bosnia and Herzegovina, it was clear that Bosnia and Herzegovina was the State party with which the Committee should deal. The wording of paragraph 5 should therefore be changed. On another matter, some members of the Committee had suggested that it should not act on its own, as it was empowered to do as a body established under the Convention, but in consultation and close coordination with the United Nations High Commissioner for Human Rights. He believed that was a sound idea which would make it possible to avoid duplication of effort.

54. With regard to the financial implications of the measures mentioned in paragraph 5, the Committee should have a discussion with the Under-Secretary-General for Human Rights with a view to finding the necessary extrabudgetary resources. It would naturally have to consider closely how specifically to implement those measures, but it was important, initially, for it to show its clear determination to help implement the Dayton Accords. He intended to prepare an amended version of his document taking into account certain suggestions made during the discussion.

55. Mr. de GOUTTES said that he would like to inform the members of the Committee of the results of the meeting he had held that morning with the United Nations High Commissioner for Human Rights. He had told the High Commissioner about the Committee's past and present prevention activities and its draft recommendations on Bosnia and Herzegovina and Rwanda. The High Commissioner had shown a keen interest in those initiatives, especially with regard to Bosnia and Herzegovina and the implementation of the Dayton Accords, and he had decided to meet the Committee the next day to discuss them. It was therefore very important for the Committee to be able to present the High Commissioner with specific proposals.

56. He had informed the High Commissioner that the proposals in question would have financial implications and the High Commissioner had reminded him of the budgetary restrictions in force. The High Commissioner had said that it was essential to strengthen cooperation between the Committee and the Office of the High Commissioner and had stressed the advisability of organizing regular contacts between the two in order to avoid duplication of effort, as well as the need for the Committee to make specific proposals for following up the emergency situations identified and for offering its services and the need for it to make better use of its relations with the High Commissioner to strengthen its cooperation with other United Nations and

regional bodies working on racial discrimination. In the High Commissioner's view, it was better both practically and financially speaking for the Committee itself to invite the representatives of those bodies before it to present their work rather than send one of its experts to attend their meetings.

57. The CHAIRMAN said that the consideration of the question would be suspended in order to give Mr. van Boven time to draft a new version of his document taking into account the various comments made, as well as the statement to be made by the Under-Secretary-General for Human Rights.

The meeting rose at 1 p.m.